

EXHIBIT B

CONVERGYS INFORMATION MGMT. GROUP, INC., et al. vs. IGATE CORP., et al.
DARIN BROWN
2/13/04

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CONVERGYS INFORMATION :
MANAGEMENT GROUP, INC. and :
CHUBB CUSTOM INSURANCE :
COMPANY, :
Plaintiffs :
-v- : Case No. CV-01-618
: (Judge Beckwith/Magistrate
: Judge Sherman)
IGATE CORPORATION, et al., :
Defendants :

- 0 -

The deposition of DARIN BROWN, taken before
Susan K. Lee, CVR-CM, Court Reporter and Notary Public
in and for the State of Ohio, at the law offices of
Ulmer & Berne LLP, 600 Vine Street, Suite 2800,
Cincinnati, Ohio, on the 13th day of February, 2004,
beginning at the hour of 9:15 a.m. and ending at 5:12
p.m. of the same date.

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CONVERGYS INFORMATION MGMT. GROUP, INC., et al. vs. IGATE CORP., et al.
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1 A That is correct.
 2 Q And that's something that Convergys
 3 realized within minutes of the actual event; is that
 4 correct?
 5 MR. SHANK: Objection to foundation.
 6 THE WITNESS: Convergys realized that
 7 the database had become corrupt within a few
 8 minutes, a matter of minutes of when the
 9 corruption occurred.
 10 BY MR. LUCAS:
 11 Q And Convergys knew what SSP database
 12 files had been corrupted?
 13 A At what time?
 14 Q Within minutes of it happening.
 15 MR. SHANK: Objection to form and
 16 foundation.
 17 THE WITNESS: I don't think that's
 18 accurate.
 19 BY MR. LUCAS:
 20 Q Would you look at -- I'll Mr. Shank to
 21 show you Exhibit Number 9. Take a moment just to look
 22 at the document and I'll give you a chance to look at
 23 any particular section you want in detail.
 24 But subsequent or after the September
 25 17th database corruption there was what was called

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1 BY MR. LUCAS:
 2 Q And you were part of those efforts,
 3 were you not?
 4 A Part of the efforts to determine the
 5 irrevocable corrective actions?
 6 Q And the root causes of the September
 7 17th, 1999 database corruption incident.
 8 A Yes.
 9 Q And you were part of the discussions
 10 within Convergys, you reviewed drafts, discussed those
 11 drafts with Mr. Koopmans and others before the
 12 postmortem analysis was completed and delivered to
 13 Sprint; is that correct?
 14 MR. SHANK: Objection to form and
 15 foundation.
 16 THE WITNESS: From a technical
 17 perspective I reviewed documents associated
 18 with the root cause of this incident.
 19 BY MR. LUCAS:
 20 Q And you also attended meetings, did you
 21 not, and reviewed drafts of the postmortem documents in
 22 question; isn't that correct?
 23 MR. SHANK: Object to form.
 24 THE WITNESS: I clearly reviewed
 25 materials associated, again, with the root

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1 within Convergys a postmortem analysis, was there not?
 2 A Yes.
 3 MR. SHANK: Object to foundation.
 4 BY MR. LUCAS:
 5 Q And that postmortem analysis included,
 6 among other things, a determination of what the root
 7 cause was for the database corruption; is that correct?
 8 MR. SHANK: Object to foundation.
 9 THE WITNESS: That is correct.
 10 BY MR. LUCAS:
 11 Q And that root base cause was then
 12 communicated by Convergys to its customer, Sprint,
 13 correct?
 14 MR. SHANK: Object to foundation.
 15 THE WITNESS: That is correct.
 16 BY MR. LUCAS:
 17 Q And as part of those efforts, Convergys
 18 also decided upon certain what it called irrevocable
 19 corrective actions; is that correct?
 20 MR. SHANK: Object to foundation.
 21 THE WITNESS: Specific to this
 22 incident?
 23 MR. LUCAS: Yes.
 24 THE WITNESS: I -- I believe that to be
 25 true.

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1 cause of this incident.
 2 BY MR. LUCAS:
 3 Q Let me show you -- while you have
 4 Exhibit Number 9 in front of you, let me also place in
 5 front of you Exhibit Number 17. Take a look at that,
 6 please. Have you seen this document before, Exhibit
 7 Number 17?
 8 A Yes.
 9 Q Mr. Koopmans identified this in
 10 substance as being the final version of the root cause
 11 irrevocable corrective action document that Convergys
 12 prepared as a result of its investigation of the
 13 September 17, 1999 database corruption incident. Do
 14 you agree with that?
 15 MR. SHANK: Objection to form.
 16 THE WITNESS: I was not responsible for
 17 -- as far as communications with Sprint, the
 18 client, with relation to this, so I can't speak
 19 to that.
 20 BY MR. LUCAS:
 21 Q You did see this document, however, and
 22 comment on it as it was being prepared by Convergys?
 23 MR. SHANK: Object to form and
 24 foundation. I think he's already answered that
 25 question.

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1 THE WITNESS: I don't remember
2 specifically reviewing this exact document,
3 but, again, I was involved in the root cause
4 analysis for this incident.

5 BY MR. LUCAS:

6 Q Let me show you what will be marked as
7 Exhibit Number 27. It's a two-page document with
8 Convergys document production numbers 708 and 709.

9 Mr. Brown, this document, as it
10 appeared in what was called the Koopmans file in the
11 Convergys legal department, was discussed with Mr.
12 Koopmans yesterday. He described that this relates to
13 the review finalization by Convergys of its postmortem
14 analysis and written summary and then the presenting of
15 that at a meeting with Sprint.

16 And I just want to call your attention
17 to the middle section, to see if this refreshes your
18 recollection, on the first page of this document.

19 The meeting with Sprint, as indicated
20 in the e-mail on the bottom, was to take place with
21 Convergys and Sprint on Thursday, September the 30th.
22 And then if you look at the middle e-mail of the
23 September 28th, there was going to be a review session
24 of that document by a variety of Convergys
25 representatives, and you're listed as a recipient of

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1 A Yes.

2 Q The second through the seventh pages of
3 this document, numbered 693 through 698, is a
4 chronology of various events having to do with the
5 database corruption; is that correct?

6 A Yes.

7 Q Okay. And did you work with Mr.
8 Koopmans in developing or gathering the information to
9 develop this chronology of events?

10 A I provided input to this document.

11 Q Would you turn to page 694? And I'm
12 showing this to see if this refreshes your recollection
13 to the questions I had asked you earlier about the time
14 frame involved.

15 This document reflects, does it not,
16 that -- in the top entry on September the 17th
17 beginning at 10:33 that various tablespaces were
18 created with data files that overwrote the SSP data
19 files that you were referring to earlier in your
20 testimony; is that correct?

21 A Yes.

22 Q And that's indicated as taking place
23 sometime beginning at about 10:33. Do you see that?

24 A Yes.

25 Q At 10:35, two entries down, two minutes

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1 Mr. Koopmans' memo scheduling the internal review
2 meeting for the day prior to the meeting with Sprint.

3 Does that refresh your recollection
4 that you, in fact, met in internal meetings with
5 Convergys to discuss the very written postmortem
6 documents that Convergys then presented to Sprint?

7 MR. SHANK: Objection to form.

8 THE WITNESS: As I answered before, I
9 clearly was involved in reviewing the material
10 that this document covers. I don't have
11 specific recollection of reviewing this
12 document and I don't have specific recollection
13 of attending this meeting.

14 BY MR. LUCAS:

15 Q So you could have been there, but you
16 just don't recall?

17 A I -- I don't recall, that's correct.

18 Q Would you turn now back to Exhibit 9?

19 Remember, we were looking at 9 and 17 together. Number
20 9 relates to the postmortem document as it existed on
21 September the 28th and the cover memo refers to the
22 same internal review meeting and then the presentation
23 of the document to Sprint on Thursday, September the
24 30th. Do you recall seeing this document before? This
25 document meaning Exhibit 9.

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1 later, the errors were appearing in the SSP alert log;
2 is that correct?

3 A Yes.

4 Q And that's the SSP alert log that
5 Convergys does not contend was edited or manipulated in
6 any manner by Mr. Rao, correct?

7 MR. SHANK: Objection. Go ahead, Mr.
8 Brown.

9 THE WITNESS: That is -- can you
10 rephrase the question, please?

11 BY MR. LUCAS:

12 Q Convergys within minutes from -- at
13 least from the SSP alert files was aware of the
14 database corruption, correction?

15 MR. SHANK: Objection to the extent
16 it's already been asked and answered.

17 THE WITNESS: That is correct.

18 BY MR. LUCAS:

19 Q Like within two minutes?

20 MR. SHANK: Objection.

21 THE WITNESS: I don't know how many
22 minutes but within minutes.

23 MR. LUCAS: Okay.

24 BY MR. LUCAS:

25 Q And Convergys knew within minutes

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1 exactly which files had been corrupted, correct?
 2 MR. SHANK: Objection to the extent
 3 it's already been asked and answered.
 4 THE WITNESS: I believe the answer to
 5 that is no.
 6 BY MR. LUCAS:
 7 Q When did Convergys first know what SSP
 8 database files had been corrupted?
 9 A I don't recall the exact time.
 10 Q It was before Convergys took the system
 11 offline, wasn't it?
 12 A Convergys didn't take the system
 13 offline.
 14 Q Before Convergys took the affected
 15 tablespaces offline, correct?
 16 A Convergys knew of some files that had
 17 been corrupted within minutes of the corruption, but
 18 that doesn't mean Convergys knew the extent of that
 19 corruption.
 20 Q How many table files were corrupted?
 21 A If I recall correctly, it was 17 data
 22 files.
 23 Q And that all took place sometime
 24 between 10:33 or 10:30 in approximate terms and before
 25 11:00, correct?

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1 A I believe that's correct, yes.
 2 Q Okay. And all of those affected data
 3 files, all 17 or the totality of the affected data
 4 files, were taken offline before 11:00, correct?
 5 MR. SHANK: Objection to the extent
 6 it's already been asked and answered.
 7 THE WITNESS: When you say taken
 8 offline, are you referring to somebody
 9 specifically taking that action?
 10 BY MR. LUCAS:
 11 Q Why don't you look at the next entry on
 12 the page we're looking at, the very page we're looking
 13 at. September 17th at 11:00, the affected tablespaces
 14 taken offline, in Convergys' final postmortem document.
 15 Do you see that?
 16 A Yes.
 17 Q Okay. So is that a correct statement?
 18 MR. SHANK: Objection to foundation.
 19 THE WITNESS: I have no reason to
 20 believe that's not correct.
 21 BY MR. LUCAS:
 22 Q If Mr. Koopmans testified as to when
 23 Convergys learned -- how long it took for Convergys to
 24 learn what data files had been corrupted, he would know
 25 the answer to that question, would he not?

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1 MR. SHANK: Object to the form of the
 2 question.
 3 THE WITNESS: I can't speak to what Mr.
 4 Koopmans would know.
 5 BY MR. LUCAS:
 6 Q Well, who was more involved in these
 7 matters between 10:30 a.m. and 11:00 a.m. on September
 8 17th of 1999?
 9 MR. SHANK: Him or Mr. Koopmans, is
 10 that the question?
 11 MR. LUCAS: Yes.
 12 THE WITNESS: I believe we were both
 13 equally involved.
 14 BY MR. LUCAS:
 15 Q Were you responsible for the usage
 16 split project that was going on?
 17 A I was not.
 18 Q Okay. Was Mr. Koopmans responsible for
 19 the usage split project that was going on?
 20 MR. SHANK: Object to form.
 21 THE WITNESS: If you can define
 22 responsible for me.
 23 BY MR. LUCAS:
 24 Q The people to whom -- the people that
 25 reported to him were actually doing it, correct?

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1 A That is correct.
 2 Q Okay. You weren't supervising at the
 3 time those people, were you?
 4 A That is correct.
 5 Q You had no supervisory or management
 6 position with respect to the usage split project that
 7 was going on on September 17th, correct?
 8 A That is correct.
 9 Q Do you have any reason to believe that
 10 Mr. Koopmans did not know when Convergys first learned
 11 of which data files had been corrupted?
 12 MR. SHANK: Objection to form, lack of
 13 foundation.
 14 THE WITNESS: I -- I wouldn't have any
 15 reason to disbelieve Mr. Koopmans.
 16 BY MR. LUCAS:
 17 Q And this document that we're looking
 18 at, you do recall that Convergys put together its
 19 postmortem after conferring with everyone, including
 20 yourself, who was involved and then finalized the
 21 document and gave it to Sprint, correct?
 22 MR. SHANK: Objection to form.
 23 THE WITNESS: I -- I was conferred with
 24 in the production of this document.
 25 BY MR. LUCAS:

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1 A That's correct.
2 Q And your understanding is Convergys is
3 not contending that Mr. Rao did it, correct?
4 MR. SHANK: Objection. He's already
5 said that.
6 THE WITNESS: Yeah, that's my
7 understanding.
8 MR. LUCAS: Okay. I want to go through
9 this one at a time to get your answers.
10 BY MR. LUCAS:
11 Q You talked about alert log. So if
12 that's then not what's being used in support of the
13 assertion that Mr. Rao may have edited or modified his
14 shell history or keystroke log, then what other
15 documents, if any, do you believe support that
16 contention?
17 A You're saying other than Exhibit 19,
18 right?
19 Q Right.
20 A I don't know of any.
21 Q Do the shell histories or keystroke
22 logs relating to Mr. Rao as they exist with respect to
23 the time frame of September of 1999, do they themselves
24 reflect anything that you believe supports a contention
25 or assertion that Mr. Rao edited or modified or amended

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1 ask most all of these questions to Bill
2 Koopmans as well.
3 MR. LUCAS: That's right. You don't
4 get to choose which witness you want as a
5 designee, but that's another matter after the
6 fact.
7 BY MR. LUCAS:
8 Q So if the SSP alert logs are not what
9 you're relying on as other documents supporting the
10 contention that Mr. Rao allegedly edited or modified
11 his keystroke logs or shell histories and if the
12 Exhibit 7 and 13 which are keystroke logs or shell
13 histories for Mr. Rao himself that have been produced
14 by Convergys do not reflect any such editing or
15 amendment in your view, then what other document or
16 documents, if any, in your view, support an assertion
17 that Mr. Rao edited or amended his keystroke history?
18 MR. SHANK: Objection to form.
19 MR. LUCAS: I'm sorry. His keystroke
20 logs or shell histories.
21 MR. SHANK: Objection to form. This
22 witness has definitely testified that Exhibit
23 19, his e-mail, is one such document.
24 MR. LUCAS: That's fine, Mr. Shank, and
25 we're trying to get to all such documents.

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1 his keystroke logs or shell histories?
2 MR. SHANK: Object to form.
3 THE WITNESS: Can you -- which things
4 are you asking that point to that?
5 BY MR. LUCAS:
6 Q The history -- shell histories
7 themselves or keystroke logs themselves that have been
8 produced by Convergys, namely Exhibit 13 and Exhibit 7
9 which we looked at earlier today, do either of those
10 documents reflect, in your opinion, any entry or
11 activity by Mr. Rao which resulted in an editing or
12 amendment of the keystroke logs or shell histories?
13 MR. SHANK: The question is directed at
14 Exhibit 7 and Exhibit 13, correct? So the
15 question is: Do either of those two documents
16 reflect anything that would indicate that Rao
17 edited his keystroke histories?
18 MR. LUCAS: That is correct.
19 THE WITNESS: Not that I know of. I
20 mean, this is a 143-page document so -- but not
21 -- but not that --
22 MR. LUCAS: Well, take your time.
23 Apparently you're a designee of the company.
24 MR. SHANK: Well, he's one of them and
25 Bill Koopmans is another one so -- and you did

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1 MR. SHANK: Well, I think the question
2 is improper, Kevin. Your question was if any.
3 He's already identified for you at least one
4 document that he had indicated.
5 MR. LUCAS: You heard the question.
6 BY MR. LUCAS:
7 Q Other than Exhibit 19 --
8 MR. SHANK: No, that wasn't the
9 question then. Go ahead.
10 MR. LUCAS: Do you want me to put that
11 into every question when the witness has
12 already said it three times and we're trying to
13 get to the other documents that he's supposedly
14 referring to? I'll do it. Let me -- let me
15 start over.
16 BY MR. LUCAS:
17 Q Other than Exhibit 19 and in light of
18 your testimony concerning the alert SSP logs and the
19 shell histories and keystroke logs themselves not
20 supporting a contention and your belief that Mr. Rao
21 may have edited or amended his keystroke logs or shell
22 histories, is there any other document in addition to
23 Exhibit 19 that you think supports such a contention?
24 A I don't believe that I stated in my
25 testimony that the alert logs do not support the

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1 Do you recall what the procedure was at
 2 that point in time in terms of in the normal course the
 3 ongoing preserving of, I think he called them, shell
 4 histories or keystroke logs?
 5 A In September of 1999 I don't recall.
 6 What I believe would be the case is that at the time we
 7 preserved 1000 lines. Our current standard is 5000, so
 8 it's been modified over the course of time.
 9 Q And do you know why the standard was
 10 increased in this regard?
 11 A It may have been related to this
 12 incident, but I don't know that.
 13 Q Did you have to do anything in terms of
 14 implementing that change or is that a change that was
 15 implemented by others?
 16 A I implemented that change.
 17 Q What did you have to do or what did
 18 Convergys have to do to change the amount of lines that
 19 were being preserved on an ongoing basis?
 20 A That's just a setting in the -- I can't
 21 recall if it's in -- it's either in the dot profile,
 22 which is a file in Unix that runs automatically when
 23 you log in, or in the dot KSHRC file.
 24 Q Is it something that can be readily
 25 implemented or is it a lengthy process?

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1 A No. It's a one-line change.
 2 Q Mr. Koopmans talked about certain
 3 technical assistance reports relating to dealings with
 4 Oracle during this time frame of late September, mid to
 5 late September of 1999. Were you involved in dealing
 6 with Oracle in these matters?
 7 A I was.
 8 Q Can you just describe to me briefly
 9 what your involvement was?
 10 A When you say these matters, can you be
 11 more specific?
 12 Q Well, I take it there were -- there
 13 were restoration/recovery events that took place with
 14 respect to the database that had been corrupted; is
 15 that correct?
 16 A That's correct.
 17 Q Okay. And as part of that effort you
 18 would have had various dealings, you personally, with
 19 Oracle?
 20 A I don't believe that specific to the
 21 recovery effort I was dealing with Oracle.
 22 Q Well, were you dealing with Oracle in
 23 some other manner relating to the database corruption
 24 or the recovery/restoration efforts?
 25 A I believe it was Mr. Hulin who opened

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1 the TAR, which is technical assistance request, with
 2 Oracle related to the recovery of the database. To the
 3 best of my knowledge, I did not open any technical
 4 assistance requests related to the recovery of the
 5 database.
 6 Q Let me just ask you so I have an idea:
 7 What was -- in general terms what was your involvement
 8 or responsibility in connection with the
 9 recovery/restoration efforts?
 10 A I was essentially one of the DBAs on
 11 the team that was trying to figure out the best
 12 mechanism to get the database restored in the shortest
 13 possible amount of time.
 14 Q How long did it take to get the
 15 database restored, an approximate time frame?
 16 A As I recall, the application was not
 17 able to be brought up until sometime Saturday morning,
 18 so I believe it was about 24 hours before we could
 19 restore service to our customer.
 20 Q After service was restored to the
 21 customer, did you continue on in providing recovery and
 22 restoration services or work related to the September
 23 17 database corruption and/or archive log damage?
 24 A In terms of restoring the lost data as
 25 a result of the way the database was restored, is that

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1 -- the lost data recovery?
 2 Q Yes.
 3 A I was peripherally involved as directed
 4 by others, but I was not responsible for that effort.
 5 Q We don't have -- maybe Mr. Shank has
 6 it. We don't have the document here that was marked as
 7 an exhibit relating to the postmortem or I'll call it
 8 the time line, but it's Exhibit Number 9 beginning on
 9 page 692. If you could just take a look at pages 693
 10 through 698. Were you involved in the preparation of
 11 these particular pages?
 12 MR. SHANK: Objection to the extent
 13 it's already been asked and answered.
 14 THE WITNESS: I provided Mr. Koopmans
 15 input and he -- he consolidated the
 16 information.
 17 BY MR. LUCAS:
 18 Q I take it Mr. Koopmans was overall
 19 responsible or they reported to him; is that correct?
 20 A Yes, that is correct.
 21 Q And we talked about this a little bit
 22 today and I don't want to re-cover the ground, but Mr.
 23 Koopmans would have been in charge of this
 24 restoration/recovery effort, not yourself; is that
 25 correct?

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<p>250</p> <p>1 is that correct?</p> <p>2 MR. SHANK: Objection to the form of</p> <p>3 the question.</p> <p>4 THE WITNESS: No, I don't think that's</p> <p>5 correct.</p> <p>6 BY MR. LUCAS:</p> <p>7 Q The lost data that we're talking about,</p> <p>8 was it on the archive logs that were damaged or</p> <p>9 otherwise made unavailable as a result of Mr. Walters'</p> <p>10 actions?</p> <p>11 MR. SHANK: Objection to the form of</p> <p>12 the question.</p> <p>13 THE WITNESS: The -- the lost data</p> <p>14 could have been reproduced, if that</p> <p>15 reproduction was necessary, had all the archive</p> <p>16 logs been present.</p> <p>17 BY MR. LUCAS:</p> <p>18 Q And those archive logs that were not</p> <p>19 present were the ones that were not present because of</p> <p>20 the activities or the actions that Mr. Walters had</p> <p>21 taken in the early morning hours of September 17th of</p> <p>22 1999, correct?</p> <p>23 MR. SHANK: Objection to the form of</p> <p>24 the question.</p> <p>25 THE WITNESS: And would not have been</p>	<p>252</p> <p>C-E-R-T-I-F-I-C-A-T-I-O-N</p> <p>STATE OF OHIO,</p> <p>COUNTY OF HAMILTON, To-wit;</p> <p>I, Susan K. Lee, CVR-CM, Court Reporter</p> <p>and Notary Public in and for the State of Ohio, do</p> <p>hereby certify;</p> <p>That on the 13th day of February, 2004,</p> <p>there appeared before me pursuant to Notice and</p> <p>agreement of counsel, DARIN BROWN, as a witness in the</p> <p>previously entitled cause;</p> <p>That the said witness was sworn by me</p> <p>and examined to tell the truth, the whole truth, and</p> <p>nothing but the truth in said cause;</p> <p>That the deposition was taken by me via</p> <p>Stenomask and electronic recording and the foregoing</p> <p>251 pages contain a true, full and correct</p> <p>transcription of all the testimony of said witness;</p> <p>That the deposition was submitted to</p> <p>counsel for the witness for reading and signature;</p> <p>That I am not related to or in any way</p> <p>associated with any of the parties to said cause of</p> <p>action, or their counsel, and that I am not interested</p> <p>in the event thereof.</p> <p>IN WITNESS WHEREOF, I have hereunto set</p> <p>my hand this 19th day of February, 2004.</p> <p>Susan K. Lee, CVR-CM</p> <p>My commission expires:</p> <p>August 30, 2004</p>

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<p>251</p> <p>1 needed, had it not been for --</p> <p>2 MR. LUCAS: That's a different</p> <p>3 question. I know you want to answer that</p> <p>4 question.</p> <p>5 BY MR. LUCAS:</p> <p>6 Q But as a factual matter, the lost data</p> <p>7 that you're talking about is the lost data that could</p> <p>8 have been created from the archive logs that were not</p> <p>9 available or not present because of Mr. Walters'</p> <p>10 conduct, correct?</p> <p>11 MR. SHANK: Objection to the form of</p> <p>12 the question.</p> <p>13 THE WITNESS: I believe that is</p> <p>14 correct.</p> <p>15 MR. LUCAS: This is probably a good</p> <p>16 time then to break.</p> <p>- 0 -</p> <p>(AND FURTHER THE DEPONENT SAITH NAUGHT)</p> <p>- 0 -</p> <p>Darin Brown</p>	

VOLUME II
IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CONVERGYS INFORMATION :
MANAGEMENT GROUP, INC.,
and CHUBB CUSTOM INSURANCE :
COMPANY,

Plaintiffs,

-v-

IGATE CORPORATION, et al.,

Defendants.

CASE NO.: CV-01-618
(Judge Beckwith)

* * * * *

The continuation of the deposition of DARIN BROWN, taken before Debra A. Sprague, Certified Court Reporter and Notary Public in and for the State of Ohio, at the offices of Ulmer and Berne, LLP, 600 Vine Street, Suite 2800, Cincinnati, Ohio, on the 19th day of February, 2004, beginning at the hour of 1:37 p.m., and ending at the hour of 3:03 p.m.

* * * * *

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1 MR. LUCAS: Please.
 2 MR. SHANK: -- confirm that. Just
 3 for the record, I'm putting in front of the
 4 witness what's been Bates marked CVG1107
 5 through 1121.
 6 BY MR. LUCAS:
 7 Q Mr. Brown, would you be kind enough to
 8 take a look at that document and let me know if that's the
 9 document that you're referring to?
 10 A It is.
 11 Q I'm going to ask the court reporter to
 12 mark -- We'll do it at the end of the deposition. -- a
 13 copy of that, so we can give Mr. Shank his document back,
 14 but a copy of that document, CVG1107 to 1127, as Exhibit
 15 fifty -- Defendants' Exhibit 51. Can I see that just for
 16 a moment, please?
 17 A (Hands document to Mr. Lucas)
 18 Q Mr. Brown, were you involved in any manner
 19 in the initial preparation of this document or of the --
 20 of its contents, whether it's the plan itself or the
 21 instructions?
 22 A No.
 23 Q Do you know whether it was revised in any
 24 manner or modified between its date, which is dated
 25 September 7, 1999, and September the 19th of 1999?

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1 had any other formal education in terms of programs,
 2 leading to some sort of certification or degree?
 3 A I have had formal education from Oracle
 4 Corporation on a variety of subjects.
 5 Q From any source other than Oracle?
 6 A I had some formal training from Cincinnati
 7 Bell Information Systems training department.
 8 Q That's the company or corporate
 9 predecessor of the Convergys Plaintiff in this case; is
 10 that correct?
 11 A That's correct. I also had some formal
 12 training from Information Technology Development
 13 Corporation, and it used to be in Sharonville. I think
 14 they've since gone out of business.
 15 Q Any other that you can remember?
 16 A Not that I recall, no.
 17 Q In your undergraduate degree, was there an
 18 area of specialization or focus within computer sciences
 19 generally?
 20 A No.
 21 Q The formal training you had from the last
 22 company you mentioned, I think Information Technology
 23 Development Corporation, approximately when was that?
 24 A That was in the early '90s.
 25 Q Can you tell me just briefly or in general

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1 A I don't know if it was or not.
 2 Q Did you attend any meetings prior to
 3 September 17, 1999, where the subject matter of the
 4 implementation of the usage split project was discussed?
 5 A I don't believe I did.
 6 Q Mr. Brown, I didn't have an opportunity in
 7 the first session of your deposition to ask you about some
 8 of your background information in terms of education,
 9 experience, and employment, so I'd like to do that now.
 10 And again, we're jumping around from different matters to
 11 kind of cover some matters that weren't covered the first
 12 time. So if that becomes confusing, let me know.
 13 Can you briefly describe for me your post-
 14 high school educational background?
 15 A I have a bachelor's degree in computer
 16 science from the University of Cincinnati.
 17 Q Is that a BS?
 18 A Yes.
 19 Q And what year did you get that?
 20 A 1990.
 21 Q And did you continue on for any graduate
 22 training at that time or graduate degree training?
 23 A I did not.
 24 Q Since your graduation with your degree,
 25 your undergraduate bachelor of science degree, have you

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1 terms what the nature of the training was?
 2 A If I recall correctly, that was a --
 3 probably a Unix shell scripting course or some type of
 4 Unix course.
 5 Q Can I just ask you what that means, Unix
 6 shell scripting?
 7 A A shell script is the program language
 8 designed to operate on the Unix operating system.
 9 Q You said you also had some formal training
 10 to the predecessor to the Plaintiff, Convergys. When was
 11 that approximately?
 12 A That would have been in the -- sometime in
 13 the 1989 to 1991 time frame; I'm not sure exactly when.
 14 Q Can you tell me generally what that
 15 training consisted of?
 16 A I believe that was a C programming course.
 17 Q And then you also mentioned training,
 18 formal training from the Oracle Corporation. When
 19 approximately did that take place?
 20 A I don't recall. I've been to several
 21 classes with Oracle.
 22 Q Do you recall, and again, just
 23 approximate, how many classes you've been to and what the
 24 duration or the typical duration was of those classes?
 25 A Probably a total of maybe five or six

4 (Pages 10 to 13)

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1 courses over the last 12 years.
 2 Q And how long would each course, on
 3 average, last?
 4 A In general the courses are either three
 5 days or five days. So probably somewhere in the three to
 6 five days.
 7 Q As a result of any of those classes, did
 8 you receive any certification or certificate from Oracle?
 9 A I did at one point have Oracle's
 10 certification as a database administrator.
 11 Q And when was that?
 12 A It was on version 7.3 of the database. I
 13 believe that certification expired in the year 2000 maybe,
 14 or thereabouts.
 15 Q Do you recall when you first, moving back
 16 in time, when you first received that certification?
 17 A I believe that was in the 1997 or 1998
 18 time frame.
 19 Q Could you briefly then describe for me
 20 what your employment history has been since your
 21 graduation from college?
 22 A Well, I've worked at a variety of
 23 companies.
 24 Q Maybe it'd be easier --
 25 A I'm not sure how detailed you want me to

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1 Q Until approximately when?
 2 A I was there about a year.
 3 Q What did you do? What were your job
 4 duties at that point?
 5 A I want to caveat this with I've had a lot
 6 of positions over the course of the last 12 years, so
 7 these dates and -- it might not be exact.
 8 Q That's fine. I just want a general --
 9 just a general sense. We understand.
 10 A It -- I was again doing C programming with
 11 CARS Information Systems, and that was in conjunction with
 12 the Informix database.
 13 Q What was your next employment position?
 14 A I left CARS Information Systems and went
 15 to work for a company called PCS Technologies.
 16 Q How long did you stay there?
 17 A I was also there about a year, as I
 18 recall.
 19 Q So this probably takes us up somewhere, in
 20 approximate terms, about 1994, or thereabouts? Does that
 21 sound about right?
 22 A Somewhere in the '93 to '94 time frame.
 23 Q And what was your duties, your job title
 24 there?
 25 A I was a programmer there as well.

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1 be.
 2 Q -- if I started -- Well, let me ask you
 3 first, then maybe we can decide how detailed. When did
 4 you first do work at Oracle, whether -- I'm sorry -- at
 5 Convergys, whether as -- Let me rephrase that. When did
 6 you first do work at Convergys or any of its corporate
 7 predecessors, whether as a contractor or as an employee?
 8 A In 1989, I believe.
 9 Q Okay. And I take it you were working for
 10 whom at the time?
 11 A Cincinnati Bell Information Systems.
 12 Q Were you an employee or contractor?
 13 A I was an employee.
 14 Q And for how long did you remain employed
 15 at that time by Cincinnati Bell Information Systems?
 16 A About two and a half years.
 17 Q And what was your general job duties or
 18 title?
 19 A I was a programmer.
 20 Q What was your next employment position?
 21 A It would have been at CARS Information
 22 Systems.
 23 Q That's what, somewhere around 1991 or
 24 1992?
 25 A Yes.

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1 Q C program?
 2 A It was C programming. There may have been
 3 some other languages also. And that was with the Oracle
 4 database.
 5 Q And what was your next position?
 6 A I left there and went to work for Oracle
 7 Corporation.
 8 Q That would be somewhere around 1994,
 9 thereabouts, starting. And how long did you remain there?
 10 A I believe that was a little bit less than
 11 three years.
 12 Q What was your job duty or titles at that
 13 point?
 14 A I was a consultant.
 15 Q So you were not an employee of Oracle or
 16 you were an employee but in the capacity of consultant?
 17 A The latter, correct.
 18 Q What type of job duties or functions did
 19 you have in that capacity?
 20 A I did a variety of different assignments,
 21 some as a programmer, some as a database administrator.
 22 Q Okay. That would take us probably
 23 somewhere around 1996, '97, in general terms; is that
 24 about right?
 25 A Somewhere in there, yeah.

5 (Pages 14 to 17)

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 513-923-4680>

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1 Q Okay. What was your next position?
 2 A I left Oracle to do consulting work on my
 3 own.
 4 Q When you worked for Oracle, where were you
 5 located geographically?
 6 A I was located in Cincinnati, Ohio.
 7 Q What were the circumstances of your
 8 leaving?
 9 A Excessive travel.
 10 Q So you would go to customer sites and that
 11 type of thing --
 12 A Yeah.
 13 Q -- frequently, would that be it?
 14 A Yes.
 15 Q That takes us now, you wanted to go out, I
 16 think you said, and I guess work on your own --
 17 A Correct.
 18 Q -- as a consultant. And you did that then
 19 probably starting somewhere around '96, '97?
 20 A That's about right.
 21 Q And how long did you remain in that type
 22 of capacity?
 23 A I was working essentially as an
 24 independent consultant, although potentially through
 25 different companies as a subcontractor for different

Page 20

1 A June of 2002.
 2 Q When you were serving as a contract --
 3 Well, let's start with the August 1999, or thereabouts,
 4 time frame. The initial position or function you served
 5 at Convergys was what?
 6 A Production database administrator.
 7 Q Was it on the Sprint P2K only or was it a
 8 more extensive assignment then?
 9 A At that time it was just Sprint.
 10 Q Did there come a point in time when your
 11 duties changed?
 12 A To include more than just Sprint; is that
 13 the question, or --
 14 Q Or change in some other capacity -- What I
 15 want to know is whether your duties remained essentially
 16 the same or if they changed when that change would be.
 17 Certainly it could be an expansion of the duties, it could
 18 be beyond the Sprint application. Whatever any signi --
 19 what you viewed as a significant change in your duties and
 20 responsibilities.
 21 A At some point in 2002, there were some
 22 organizational changes within the company that resulted in
 23 our team supporting more clients than just Sprint.
 24 Q Has that continued up to the present date?
 25 A Yes, it has.

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1 companies up until I joined Convergys as a contractor.
 2 Q And you joined Convergys as a contractor
 3 when, if you recall?
 4 A In 1999.
 5 Q Do you recall when in 1999 it was, in
 6 relation to the events of September 17th?
 7 A Oh, before September 17th. I --
 8 Q A month before? Three weeks before?
 9 A I think it was in the month of August.
 10 Q When you were in your consultant,
 11 independent consultant position, what was the nature of
 12 the work, generally, that you were doing?
 13 A Mostly database administration.
 14 Q Do you have a background in Unix, like
 15 systems administration?
 16 A I do not.
 17 Q When you joined or when you began working
 18 for Convergys in August of 1999, you said you were a
 19 contractor?
 20 A That's correct.
 21 Q Did you remain a contractor or did at some
 22 point you become a Convergys employee?
 23 A I am now a Convergys employee.
 24 Q Okay. And when did you become an
 25 employee?

Page 21

1 Q Am I correct in understanding that from
 2 the time you first started working for Convergys as a
 3 contractor in August of 1999 up to the present time,
 4 you've been a production DBA?
 5 A Yes, that's true.
 6 Q Do you have, for example, right now an
 7 official -- is there an official job title that goes with
 8 your position, or is it more of an assignment to a group
 9 or an area?
 10 A I have an official job title.
 11 Q Can you tell me what that is, please?
 12 A It's senior database consultant.
 13 Q When you first joined on as a contractor
 14 for Convergys in August of 1999, although you were not an
 15 employee, did you have a designation, kind of the
 16 equivalent of a title, at that point in time?
 17 A Not that I'm aware of, other than what
 18 I've testified to earlier, which is production DBA.
 19 Q Okay. When you joined Convergys in August
 20 of 1999, or thereabouts, was Mr. Neil Hulin then working
 21 for Convergys either as an employee or a contractor?
 22 A He was.
 23 Q Do you know how long he had been there
 24 prior to your joining?
 25 A I believe he had started within a couple

6 (Pages 18 to 21)

<p style="text-align: right;">Page 58</p> <p>1 recall, you hadn't even looked or reviewed this document 2 in September of 1999, correct? 3 A Right, as far as I can recall, that's 4 true. 5 Q So now I'm asking you in the capacity -- 6 And I'm not asking you to disclose communications with 7 Convergys counsel. But as a Convergys designee in this 8 case or one of two designees on various subject matters, 9 are there entries on Exhibit 7 which Convergys believes 10 are significant for purposes of the determination of the 11 cause or likely cause of the September 17 production data 12 corruption, or any alleged coverup activities by Mr. Rao 13 with respect to those matters? 14 MR. SHANK: If you can answer the 15 question, Mr. Brown, without disclosing 16 communications you've had with Convergys 17 counsel, then you can answer; if not, then 18 please don't answer that question. 19 THE WITNESS: Can I confer with you 20 on this issue to -- 21 MR. SHANK: Yeah. 22 THE WITNESS: -- clarify what's 23 considered privileged? 24 MR. LUCAS: Would you like to step 25 out, or you want me to step out? Whatever --</p>	<p style="text-align: right;">Page 60</p> <p>1 THE WITNESS: Yes. This might take a 2 few minutes. 3 MR. LUCAS: That's all right. Let's 4 go off the record. 5 (OFF THE RECORD) 6 MR. SHANK: After conferring with the 7 witness again, I'm going to modify the 8 instruction a bit. Mr. Brown testified in his 9 previous deposition that the topic of this 10 particular exhibit was referenced either 11 directly or indirectly in his e-mail to Bill 12 Koopmans dated September 20th. I'm sorry, 13 September 21st. 14 He can answer the question to the 15 extent the question is directed at those 16 communications. Any other beliefs that Mr. 17 Brown may or may not have that are responsive 18 to the question that you've asked Kevin, would 19 implicate the attorney work product privilege 20 and also the attorney/client privilege. So I'm 21 not going to let him testify as to any other 22 beliefs that he has responsive to your 23 question, other than as they relate to his e- 24 mail and his communications with Mr. Hulin. 25 MR. LUCAS: Mr. Hulin or Mr. Koopmans</p>
<p style="text-align: right;">Page 59</p> <p>1 MR. SHANK: We'll step out. 2 (OFF THE RECORD) 3 MR. SHANK: Can we have her -- either 4 have that read back or can you restate it? 5 MR. LUCAS: I'll try and restate it. 6 BY MR. LUCAS: 7 Q Mr. Brown, is there any entries or 8 omission of entries, I guess, in Exhibit Number 7 which 9 Convergys believes are significant for purposes of 10 determining the cause or possible cause or causes of the 11 September 17th, 1999 production database corruption, or of 12 any alleged coverup type activities by Mr. Rao with 13 respect to those events? 14 MR. SHANK: Mr. Brown, as the 15 question's worded, you can tell Mr. Lucas your 16 beliefs, but you cannot tell Mr. Lucas, and 17 I'm instructing you not to tell him any 18 communications that you've had with Convergys 19 counsel as to what they've said to you or what 20 you've said to them. 21 So you can tell Mr. Lucas your 22 beliefs, but do not disclose any communications 23 you've had with Convergys counsel or Convergys 24 counsel has had with you. Do you understand 25 the instruction?</p>	<p style="text-align: right;">Page 61</p> <p>1 or both? 2 MR. SHANK: Mr. Hul -- Well, Mr. 3 Hulin and Mr. Koopmans at the time -- around 4 the time of the outage. 5 MR. LUCAS: Okay. Well, I mean, I 6 don't think that's an appropriate objection, 7 but there's nothing I can do about that. 8 BY MR. LUCAS: 9 Q So, Mr. Brown, in light of your 10 understanding of what your counsel just stated, can you 11 answer my question? 12 A The only significant difference that I 13 know of between the two files, outside of instructions by 14 counsel, is the fact that Mr. Hulin had looked at the 15 history file at that time, did not find certain commands 16 that existed on September 17th; namely, the removal of 17 the alert log file. And, therefore, the presumption was 18 made that those commands were likely removed from the 19 file. 20 Q Okay. So there's nothing you could point 21 out to me in Exhibit 7, which would be a line item or a 22 command in response to my question? 23 MR. SHANK: There's nothing that's 24 non-privileged, Kevin. 25 MR. LUCAS: I'm not trying to -- I</p>

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<p style="text-align: right;">Page 62</p> <p>1 mean, subject to the objection that's been made</p> <p>2 --</p> <p>3 THE WITNESS: Correct, there's</p> <p>4 nothing.</p> <p>5 BY MR. LUCAS:</p> <p>6 Q -- there's nothing you could point to, to</p> <p>7 indicate that because you're telling me what it is an</p> <p>8 omission; is that correct?</p> <p>9 A As -- Correct.</p> <p>10 Q Now, you attended Mr. Rao's deposition</p> <p>11 yesterday; is that correct?</p> <p>12 A Yes, that's correct.</p> <p>13 Q And I'm not going to try to characterize</p> <p>14 his testimony. We can get his transcript when the time</p> <p>15 comes. But as a general matter, Mr. Rao was asked certain</p> <p>16 questions in your presence as to whether he could or would</p> <p>17 speculate or venture some thoughts on what might have been</p> <p>18 the cause of the production database corruption on</p> <p>19 September 17th, 1999. Do you recall that testimony,</p> <p>20 generally?</p> <p>21 A I do.</p> <p>22 Q Okay. And do you recall that Mr. Rao</p> <p>23 indicated a view that the import function that he</p> <p>24 testified to or import command that he testified to as</p> <p>25 having issued on September 17th, might have caused the</p>	<p style="text-align: right;">Page 64</p> <p>1 MR. SHANK: Carve out -- I'm going to</p> <p>2 instruct the same wit -- the witness the same</p> <p>3 way I did before. If to answer Mr. Lucas'</p> <p>4 question you have to disclose privileged</p> <p>5 communications, don't answer the question. So</p> <p>6 I think Kevin will agree to carve out</p> <p>7 privileged communications from your question.</p> <p>8 Is that correct, Kevin?</p> <p>9 MR. LUCAS: I can't change the</p> <p>10 instruction. I'm not sure -- As a general</p> <p>11 matter, yes. But I don't know what constitutes</p> <p>12 those discussions here. But that's the</p> <p>13 instruction that's on the table. So follow</p> <p>14 your counsel's instruction and answer the</p> <p>15 question as best your able.</p> <p>16 THE WITNESS: I -- Then I can't</p> <p>17 answer the question.</p> <p>18 MR. LUCAS: In light of the</p> <p>19 instructions in the last five minutes, there's</p> <p>20 nothing else. I mean, I would have additional</p> <p>21 questions if the witness could provide other</p> <p>22 testimony, but for the instructions, he's not.</p> <p>23 So that'll be the end of my questioning of Mr.</p> <p>24 Brown. Thank you for your time.</p> <p>25 MR. SHANK: We'll reserve signature,</p>
<p style="text-align: right;">Page 63</p> <p>1 data -- database -- I'm sorry -- the production database</p> <p>2 corruption? Do you recall that testimony generally?</p> <p>3 A Yes.</p> <p>4 Q Had you considered, you personally, prior</p> <p>5 to September 21, 1999, the question or issue as to what</p> <p>6 effect, if any, the import command or function in question</p> <p>7 had or may have had on the production database corruption</p> <p>8 in question?</p> <p>9 A I don't believe I had.</p> <p>10 Q Had anyone within Convergys made such a</p> <p>11 consideration prior to September 21 of 1999?</p> <p>12 MR. SHANK: If you know, Mr. Brown.</p> <p>13 THE WITNESS: I don't recall anybody</p> <p>14 telling me that.</p> <p>15 BY MR. LUCAS:</p> <p>16 Q So you don't recall, for example, Mr.</p> <p>17 Koopmans or Mr. Hulin addressing that issue or having</p> <p>18 indicated that they considered such an issue back in</p> <p>19 September of 1999, correct?</p> <p>20 A I don't recall.</p> <p>21 Q Prior to yesterday, had you ever</p> <p>22 considered what effect or possible effect the import</p> <p>23 command or import function may have had in connection with</p> <p>24 the production database corruption of September 17th,</p> <p>25 1999?</p>	<p style="text-align: right;">Page 65</p> <p>1 for the record.</p> <p>2 *****</p> <p>3 (WHEREUPON, THE DEPOSITION OF DARIN BROWN</p> <p>4 WAS CONCLUDED AT 1:37 P.M.)</p> <p>5 *****</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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CERTIFICATION

STATE OF OHIO,

COUNTY OF HAMILTON, TO-WIT:

I, Debra A. Sprague, Court Reporter and
Notary Public in and for the State of Ohio, do hereby
certify:

That on the 19th day of February, 2004,
there appeared before me pursuant to notice and agreement
of counsel, DARIN BROWN, as a witness in the previously
entitled cause;

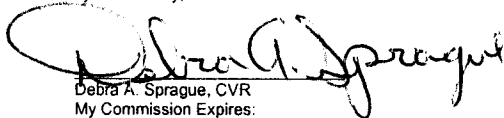
That the said witness was sworn by me and
examined to tell the truth, the whole truth, and nothing
but the truth in said cause;

That the deposition was taken by me via
stenomask and electronic recording and the foregoing 65
pages contain a true, full and correct transcription of
all the testimony of said witness;

That the said deposition having been
transcribed, was delivered to counsel, for the witness for
reading and signature;

That I am not related to or in any way
associated with any of the parties to said cause of
action, or their counsel and that I am not interested in
the event thereof.

IN WITNESS WHEREOF, I have hereunto set my
hand this 21st day of February, 2004.



Debra A. Sprague, CVR
My Commission Expires:
August 12, 2006

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513-923-4680>